

SHIRLEY COMMUNITY PRIMARY SCHOOL

To: Cabinet

Date: 20TH October 2009

From: Service Director, Strategy and Commissioning, Children and Young People's Services

Electoral division(s): East Chesterton, Cambridge

Forward Plan ref: 2009/035

Key decision: Yes

Purpose: Cabinet is asked to consider extending the terms of the current lease between the County Council and the Old Schools of Cambridge Trust for use of the Shirley Primary School upper school site in Nuffield Road, Cambridge. This will defer the Council's current obligation to purchase the site in 2011.

Recommendation: Cabinet is recommended to grant officers the authority to:

- (i) conclude negotiations with the Old Schools of Cambridge Trust to extend the current lease on the Shirley Primary School upper school site in Nuffield Road and thereby defer the need to purchase the site from the Trust in 2011.**
- (ii) work with the Old Schools of Cambridge Trust to provide an alternative school site that replaces its present interest in the Shirley Community Primary School site in Nuffield Road, Cambridge**
- (iii) In addition, Cabinet is asked to note the conclusion of earlier negotiations with the Trust that has enabled building work to commence on the Nuffield Road site**

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1. BACKGROUND

- 1.1 In 2005/6, the Authority undertook a review of primary educational provision in East Chesterton in Cambridge. At the time, East Chesterton was served by Shirley Community Nursery and Infant School and St Andrew's Church of England Aided Junior School.
- 1.2 The review was prompted by a number of factors, but a key driver was the fact that following an inspection by the Office for Standards in Education (OfSTED) undertaken in July 2005, St Andrew's Junior School had been placed in special measures for the second time. No other school in Cambridgeshire had ever received a second special measures designation.
- 1.3 At the conclusion of the review, following extensive consultation, the Authority's preferred option was to close St Andrew's Junior School, and extend the age range of Shirley Community Nursery and Infant School to create a 420 place 3-11 extended services nursery and community primary school on the St Andrew's Church of England Aided Junior School site.
- 1.4 Cabinet endorsed the review recommendations and on 28 February 2006 approved:
 - the publication of the statutory notices required to give effect to the Council's preferred option, with the resulting proposed new Shirley Primary School opening in September 2006 for pupils aged 3 to 11
 - the relocation of the resulting Shirley Community Primary School to the St Andrew's Junior School site in Nuffield Road, Chesterton
- 1.5 The School Organisation Committee (SOC) for Cambridgeshire considered and gave approval to the published proposals on 25th May 2006. The matter had been referred to the SOC as a result of a single objection from a member of staff at St Andrew's Church of England Aided Junior School.
- 1.6 St Andrew's Church of England Aided Junior School closed on 31st August 2006, and Shirley Nursery and Infant School became Shirley Community Nursery and Primary School with effect from 1 September 2006. The school is now into its third academic year operating on a split site basis. The sites are 0.28 miles apart.

2. CURRENT AGREEMENT WITH THE OLD SCHOOLS OF CAMBRIDGE TRUST

- 2.1 The ownership of the St Andrew's site in Nuffield Road, including the playing fields, was transferred from the County Council to the Cambridge Old Schools Trust in the 1980s.
- 2.2 To give effect to the review recommendations it was necessary for the County Council to gain possession of the site on terms that would safeguard, in the long term, its significant planned capital investment in the accommodation required to enable the new all-through Shirley Community Primary School to operate on a single site. It was acknowledged at the time that there would be

a financial cost but there was a need to conclude the review and remove the long period of uncertainty that had surrounded the provision of primary education in East Chesterton.

- 2.3 In May 2006 Cabinet gave approval for the conclusion of a lease/legal agreement that protected the County Council's interest. The agreement as concluded meant that the County Council paid a market rent based upon residential value for the 1.603 acres occupied by the school and community buildings and an existing rent for the 2.43 acres of playing field on the site.
- 2.4 The original agreement, in the anticipation of major building work taking place on the site, acknowledged that future changes would be required to facilitate the building solution when the need arose.
- 2.5 On 2nd December 2008, Cabinet duly gave approval for officers to conclude a revision to the original leases to reflect the increased building footprint. The Council required an additional 0.755 acres of the playing field to secure the planned building work necessary to enable the Shirley Community Nursery and Primary School to operate on a single site. The County Council now pays a market rent based on residential use for the enlarged 'brownfield' area. The annual rental for the existing use of the playing fields has been reduced accordingly as the school now occupies a smaller area of the site.
- 2.6 Cabinet also gave approval for the County Council to enter into an access agreement with the Cambridge Old Schools Trust to enable building work to commence ahead of formal conclusion of the lease agreements. While work would commence on site at the Council's risk, Cabinet considered that the programme for the new school had already been delayed by the protracted nature of the negotiations to secure the land and there was an educational imperative to support the school by minimising the length of time the school would need to continue to operate on a split site basis.
- 2.7 The access agreement was duly concluded in February 2009 and construction began immediately after.

3. MAIN ISSUES

- 3.1 Throughout the negotiation and re-negotiation of the lease, the County Council has always recognised that under charitable law the Trustees were obliged to obtain best consideration for the site and, as a consequence, could not transfer the site to the County Council at either no cost or a reduced cost. The preferred option has always been to replace the Trust's interest in the Nuffield Road site (the former St Andrew's Church of England Aided Junior School site) with a similar interest in another school in Cambridge on the basis that it had the advantages of representing best consideration while maintaining the Trust's role in education in Cambridge. It would also maintain the diversity of school provision within the Cambridge area.
- 3.2 The current leases and ancillary agreements provide for the County Council, in exchange for the St Andrew's/Nuffield Road site, to replace the Trust's interest in the site with an interest in a new primary school within 5 years, i.e. by 31st August 2011. However, should it not be possible to provide a new school site within this period then the Council would pay to the Trust a fixed

sum of £2m for the freehold of the original part of the brownfield land area of the school. The additional brownfield area of 0.755 acres, acquired for the reasons set out in paragraph 2.4, is subject to a different condition. The lease contains an option for the County Council to take a 999 year lease on this part of the site at a premium of £943,750 to be exercised before the 31 August 2011. In summary, the County Council would have to pay the Trust £3m to acquire the whole of the brownfield area of the site whilst continuing to pay rent on the playing fields.

- 3.3 At the time of entering this agreement, it was considered that the need to provide new primary schools in the Cambridge area to meet the demands of new housing developments meant it was highly probable that the Trust's interest could be replaced through a new school within five years. However, the economic downturn has subsequently slowed the pace at which major new housing areas are coming forward. There is now no prospect of providing a replacement school for the Trust by 2011, particularly in the North West fringe of Cambridge which is an area in which the Trust had previously indicated an interest. There is, therefore, a significant financial commitment upon the County Council under the terms of the current lease.
- 3.4 Officers have been in discussion with representatives of the Trustees for some months regarding the implications of the delay for both parties in being able to provide a replacement school and how this might need to be reflected in the existing agreements between the County Council and the Trust. These representatives have indicated that an in principle agreement to the extension of the current lease will be approved by the Trustees at their next meeting in November this year. The Trust would require a two year notice period of termination by either side to be included in the existing leases alongside agreement to their extension.
- 3.5 Such a change would allow the Council, working closely with the Trust's education officer, more time to support them in acquiring a replacement interest in a new school/site or, if that eventually turns out not to be possible, would provide the County Council with more time to fund the purchase of the current site from its capital programme.

4. SIGNIFICANT IMPLICATIONS

4.1 Resources and Performance

The delay in being able to provide a replacement school means that there is a significant financial obligation upon the County Council under the terms of the current lease which will need to be discharged by 31st August 2011. At present there is no provision for the purchase of the site from the Trust included in the capital programme. Purchase would represent an additional commitment at a time when the Children and Young People's Services (CYPS) capital programme is under severe pressure and existing commitments are being reviewed.

Officers will continue to support the Trust so that it is better informed of all the major development sites in the Cambridge Sub-Region and the statutory requirements of the Education and Inspections Act 2006 for organisations wishing to promote new maintained schools.

4.2 Statutory Requirements and Partnership Working

The publication of the Education and Inspections Act 2006, shortly after the conclusion of the original lease, means that the Cambridge Old Schools Trust must enter into a competition, be judged against other potential promoters, and be awarded the project, if it is to be successful in achieving its aspiration of establishing a new primary school in place of its interest in the former St Andrew's Church of England Aided Junior School.

The County Council has already been in discussion with the Cambridge Old Schools Trust to support it in taking the necessary action to prepare to enter the competition process when the right opportunity arises. The Trust has secured approval to extend the area in which it operates to include the whole of the City and Northstowe thereby increasing the opportunities available to it to enter the competitions process. It has appointed a part-time development worker to lead the work on developing a bid. Officers have held several meetings with this development worker and ensured that she has a clear understanding of the competition process, the areas for development where new primary schools are planned and the planned opening dates for these schools based on available planning and demographic data. It is evident from these meetings that the Trust is keen to ensure that any proposals it makes enjoy widespread community support.

Advice is yet to be taken from the Department for Children, Schools and Families (DCSF), but it is likely that the Council would not be permitted to determine the outcome of any competition in which the Trust were to be one of the bidders as it has a financial interest in the eventual outcome. The decision would, therefore, be one that would be referred to the School Adjudicator.

The Trust has also indicated that it would require any replacement site to be free of encumbrances, (e.g. covenants on use). This could be secured within Section 106 negotiations between the local planning authorities and developers, and will need to be reflected in the transfer agreements of the identified school site(s) as appropriate.

4.3 Climate Change

The Shirley Primary School building design has achieved the Building Research Establishment's Environmental Assessment Methodology (BREEAM) very good standard in line with County Council requirements. The scheme also achieves Local Plan requirements for renewable energy and Building Control Regulations for reductions in energy use.

Location of the school on a single site will support the implementation of the School Travel Plan prepared as part of the planning application. The promotion of cycling and walking to the school community is more readily received where parents only have to deposit or collect children from a single site.

4.4 Access and Inclusion

The school has been operating across two sites for 3 years and, due to the scale and nature of the planned building programme, has a further 18 months of managing and organising on a split-site basis. It must also be recognised that this is a school which serves a high needs area and faces many challenges. It is the subject of high-level

support from the Council. There was a clear educational imperative to conclude negotiations with the Trust, and avoid potential further lengthy delays with the planned building programme, and further extend the split-site arrangement, which placed significant additional demands upon the school, and created practical problems for parents/carers with children spanning the infant and junior age ranges.

4.5 Engagement and Consultation

The competition process for selecting the promoters of a new school, introduced by the Education and Inspections Act 2006, requires extensive consultation to be undertaken at key stages in the process.

Source Documents	Location
Agenda, minutes and report of cabinet meetings on 28/2/06; 23/5/06 and 2/12/08	Room B202, Castle Court Cambridge